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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-seventh session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 16 August 1995, at 10 a.m.

Chairman: Mr. MAXIM

later: Mr. HAKIM

later: Mr. MAXIM

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The meeting was called to order at 10.15 a.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS:

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7) (continued) (A/50/38, E/1995/26-E/CN.6/1995/14)

THE IMPLEMENTATION OF THE HUMAN RIGHTS OF WOMEN (agenda item 11) (continued) (E/CN.4/Sub.2/1995/22, E/CN.6/1995/13 and 42)

1. Mr. LINDGREN ALVES said that agenda item 11 merited the Sub-Commission's attention for a number of reasons. Firstly, it dealt with the human rights of the majority of the world's people. Secondly, the 1993 Vienna World Conference on Human Rights had clearly mandated all the human rights bodies to address the human rights of women and the Sub-Commission could not disregard that decision. Thirdly, the Fourth World Conference on Women would be taking place shortly. That event would constitute not only the biggest international gathering in history, but might also strengthen or totally discredit the efforts so far made by the international community to improve the world social situation.

2. All the major conferences convened by the United Nations for the current decade were interlinked, each one supplying inputs to subsequent conferences as well as receiving inputs and reinforcement from preceding events. The Beijing Conference would face many challenges, especially from what was wrongly called "fundamentalism". The threats originated not from specific countries, regions, religions or cultures, but rather from intolerance which, whether religious or secular, had always been and remained the most serious obstacle to the implementation of human rights, especially as far as non-discrimination was concerned.

3. The tremendous efforts made during the 1993 Vienna Conference had produced a consensus on the most comprehensive human rights document ever approved by the international community, namely, the Vienna Declaration and Programme of Action. Further extraordinary results had been achieved at the 1994 Cairo Conference on Population and Development, which had undoubtedly been a milestone in the international struggle for the assertion of women's rights. After so much effort to make tolerance prevail over conflicting views, the Copenhagen Summit on Social Development and the meeting of the Preparatory Committee for the Beijing Conference had witnessed an unacceptable attempt by some Governments to set aside the consensus which had been achieved and to nullify many of the achievements of Vienna and Cairo. Since most of those achievements related to the rights and the empowerment of women, the Sub-Commission must send a clear message to Beijing in support of progress. Any defeat on the question of women's rights would be a setback for human rights as a whole.

4. The fact that "fundamentalism" had become one of the most visible features of the post-cold war world, and that the main victims of that phenomenon, especially in its religious manifestations, were women made it all the more important for the Sub-Commission to give its close attention to the rights of women. It was for that reason that all Governments in Vienna had agreed, in the words of paragraph 38 of the Vienna Declaration, on the

importance of "working towards the elimination of violence against women" with particular reference to "the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism".

5. It was worth recalling the clarification given by the Special Rapporteur on violence against women, its causes and consequences in her preliminary report to the Commission on Human Rights at its previous session (document E/CN.4/1995/42). Paragraph 66 of that report had rightly emphasized that certain "man-made" practices performed in the name of religion, rather than religions themselves, often violated internationally accepted norms of human rights including women's rights and that recent religious movements, often termed "fundamentalist", had sought to clothe those discriminatory practices with religious sanctity.

6. It was reassuring that delegates attending the Beijing Conference would have such a deep and comprehensive document on the question of violence against women as the one prepared by the Special Rapporteur on violence against women. Further, Mrs. Warzazi's important work on traditional practices affecting the health of women and children should be forwarded to the Beijing Conference. It was encouraging to learn from the report of the Secretary-General (E/CN.4/Sub.2/1995/22) that the recommendations of the Vienna Conference in matters pertaining to the specific rights of women were being implemented, at least by international bodies, under the close supervision of the Centre for Human Rights.

7. One of the most important aspects highlighted by the report of the Special Rapporteur on violence against women was the issue of State responsibility. States and international law had tended to evade responsibility for the actions of private citizens, especially when they took place within the family or were sanctioned by custom. However, with the adoption on 20 December 1993 by the General Assembly of the Declaration on the Elimination of Violence Against Women, the situation had changed. The State was now held responsible for countering violations of human rights, even where that violence was not perpetrated by its agents. As the report had emphasized, the emergence of State responsibility for violence in society was crucial in any efforts to eradicate gender-based violence and was one of the most important contributions of the women's movement to the issue of human rights. But the State alone could not succeed in eradicating such violence. Non-governmental organizations and grass-roots organizations, as well as the clergy and individuals needed to work together to help the State overcome its limitations and make a substantive contribution to the observance of human rights including the human rights of women.

8. Mrs. ANDREEVSKA (Observer for the former Yugoslav Republic of Macedonia), speaking on agenda item 11, said that, although women's inequality was a social phenomenon of the past, at the same time many of the attitudes which had created it remained. Although the right to equality was one of the most fundamental principles of the United Nations and enshrined in its basic instruments, women in every society still suffered de facto or sometimes de jure discrimination.

9. Significant progress had been made since the First World Conference on Women in Mexico. Subsequently, the international community had been provided with an efficient legal instrument, the Convention on the Elimination of All Forms of Discrimination against Women, which had entered into force in 1981 and had been ratified by 138 States, including her own.

10. The 1993 World Conference on Human Rights in Vienna had proclaimed the goal of universal ratification of the Convention by the year 2000. It had also called upon States to withdraw their reservations in respect of certain provisions which were contrary to the spirit of the Convention. The Convention did not simply constitute a declaration of women's rights, but provided a programme of action aimed at establishing safeguards and ways of promoting those rights and of combating discrimination and any violations of women's fundamental rights.

11. One very important message from the Vienna Conference related to the issue of equal opportunities for women. The principle of equality was a cornerstone of all democratic societies and of societies based on the observance of social rights and would be the focus of discussions at the Fourth World Conference on Women, to be held in Beijing in September 1995.

12. Her country supported the appeal of the World Conference on Human Rights for the adoption of a new procedure to help eliminate discrimination against women. It welcomed the decision of the Committee on the Elimination of Discrimination against Women to establish guidelines to serve as a basis for the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

13. Encouraging signs were being seen of a growing concern at international, regional and national levels, at the prevalence of violence against women. In 1993, the General Assembly had adopted a Declaration on the Elimination of Violence against Women. For the first time in the history of the United Nations, a Special Rapporteur on violence against women had been appointed and had submitted her preliminary report to the fifty-first session of the Commission on Human Rights. Another significant development had been the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, which had been adopted by the Organization of American States on 9 June 1994. The Convention was the first international agreement specially dedicated to combating violence against women. It was also significant that the Convention provided a procedure by which individuals and non-governmental organizations might lodge complaints and petitions with the Inter-American Commission on Human Rights.

14. Her country was also committed to the full implementation of the constitutional, legal and international norms relating to the universality of human rights. It was making every effort to achieve that objective and paying special attention to ways of safeguarding human rights and securing cultural identity and diversity. Finally, attention was also focused on the protection of those rights and on providing and mobilizing educational instruments and the media to raise public awareness about the universal observance of human rights.

15. Significant progress had been made in the implementation of women's rights at regional and international levels. Women in all countries and regions faced essentially the same problems which, Ms. Mongella the Secretary-General of the Fourth International Conference on Women had said, differed only in degree. The Conference in Beijing would be an excellent opportunity for all States to agree on the need to promote genuine equality of opportunity for men and women and full participation by women in the process of economic, social and political development. The discussions on fundamental issues of equality and democracy, the identification of obstacles impeding the full implementation of women's rights, and the proposals for strategies, objectives and priority measures which would emerge from the Conference would help to reinforce the basic commitment of the international community to making equality for men and women an integral part of all its activities. The cooperation of the High Commissioner for Human Rights would be of paramount importance for the achievement of that equality on which development and peace ultimately depended.

16. Mr. EIDE, speaking on agenda item 7, said that it was important to emphasize the binding nature of Articles 55 and 56 of the Charter of the United Nations which called upon all Members of the United Nations to promote higher standards of living, full employment and conditions of economic and social progress and development and to take joint and separate action in cooperation with the Organization for the achievement of those purposes. Those articles reflected the intimate linkage which existed between human rights, development and the need for international cooperation and provided the basis of the Sub-Commission's own work.

17. Paragraph 10 of the Vienna Declaration and Programme of Action affirmed that the right to development, as established in the Declaration on the Right to Development, was a universal and inalienable right and an integral part of fundamental human rights. It confirmed that the human person was the central subject of development, and stated that while development facilitated the enjoyment of human rights, lack of development could not be invoked to justify the abridgement of internationally recognized human rights. Nearly every independent State in the world, in signing the Vienna Declaration, had committed itself to those principles. He agreed with Mr. Zhong that no State or group of States should arrogate to themselves the role of judge or jury over other countries in human rights matters. For that reason, it was essential to develop joint mechanisms and bodies for the entire international community, including institutions which could monitor the performance of all in the field of human rights, whether civil, political, economic, social or cultural.

18. The existence of treaty bodies able to monitor the implementation of the human rights treaties was also very important. It was even more important to develop collective procedures to deal with alleged violations. The Optional Protocol to the International Covenant on Civil and Political Rights would need to be matched by other comparable procedures under the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Economic Social and Cultural Rights, and other mechanisms. It

was no less important, if States or groups of States were to be prevented from acting as judge and jury over other States that the mandate of the thematic rapporteurs and working groups of the Commission on Human Rights should be extended to cover economic and social rights.

19. He looked forward to the final report of the Working Group on the Right to Development which would conclude its work in the autumn of 1995, and hoped that it would put forward proposals for future action.

20. With regard to the implementation of the human rights of women considered under agenda item 11, he was firmly of the opinion that it needed to be a fully integrated part of the Sub-Commission's work, not merely as a special agenda item but as an integral part of all aspects of its activities. The report produced by the Special Rapporteur on violence against women (E/CN.4/1995/42) was an impressive achievement which tackled head-on the disturbing issue of violence against women in the family, in the community, or perpetrated or condoned by the State. In particular, he agreed with the statements in paragraph 66 of the report. The Sub-Commission, through the very valuable work in the area of traditional practices affecting women and girls done by Mrs. Warzazi had contributed greatly to raising awareness of such practices. In general, claims that such traditional practices had to be protected on the grounds that they were the expression of a religious or ethnic identity deserved to be regarded with a degree of scepticism, and the rights of a community could not be allowed to override basic human rights.

21. The work done in the Working Group on Contemporary Forms of Slavery was also of relevance to the consideration of violations of women's rights.

22. Also, he wished to endorse the study prepared by Mrs. Chavez on the situation of systematic rape, sexual slavery and slave-like practices during war time, including internal conflict. It was gratifying that Mrs. Chavez had also drawn on the work done on compensation and on the work done by the Special Rapporteur on violence against women. He agreed that there was a need to pay greater attention to aspects of State responsibility relating to the obligation to protect the rights of individuals, including the protection of women against violence.

23. He was pleased to note the report of the Secretary-General (E/CN.4/Sub.2/1995/22) which set out measures taken by the Division for the Advancement of Women in cooperation with the Centre for Human Rights to integrate women's rights into the activities of the treaty bodies, the Commission, the Sub-Commission and the Centre for Human Rights, the joint work plan for the Division and the Centre for Human Rights.

24. He hoped that the forthcoming conference in Beijing would mark an important step forward and that it might produce fresh ideas for discussion at the next session of the Sub-Commission.

25. Mr. SALMAN (Observer for Iraq) said that full participation by women in the political, economic, civil, political and social spheres and the elimination of discrimination based on gender was the manifest aim of the international community as expressed in all the relevant human rights instruments. Women's rights therefore could not be restricted to the

elimination of discrimination but needed to embrace all aspects of their rights with the aim of eliminating all discriminatory practices, taking into account the particular characteristics of individual societies. The need for women to participate actively in the development process was paramount. That was in line with the 1986 Declaration on the Right to Development and with the Rio Declaration on Environment and Development. Iraq assigned particular importance to the planned Fourth World Conference on Women and hoped that the Conference would take into account all the obstacles faced by women in overcoming problems related to development. It also hoped that the Sub-Commission during its present session would call on the Working Group on the Right to Development to pay particular attention to those problems.

26. In Iraq, women had made enormous advances in all spheres of national life, a fact which had been evident from the report of Iraq to the Committee on the Elimination of Discrimination against Women (document A/48/38), which showed the immense progress made by Iraq not only in terms of legislation and the adoption of international conventions but in the actual daily implementation of women's rights. Under the Constitution, all citizens were equal before the law irrespective of sex or race. Women thus had full legal equality and their economic, political and civil rights, as well as social and educational rights, were guaranteed.

27. Democracy, development and protection of human rights were closely interlinked. Full participation by women in political, economic and cultural life could only be maintained if equitable and fair economic relationships also prevailed. Iraq's economy, however, had been hit very hard by the international embargo, and women and families were particularly vulnerable to the economic hardships which had resulted and bore a particular burden of the suffering. Indeed, it could be said that the embargo had largely reversed the progress which had been made in drawing women into the development process and was thus a serious violation of human rights, as well as a major impediment to the implementation of programmes such as those set out in the Nairobi Forward-Looking Strategies for the Advancement of Women. If discrimination were to be eliminated, and the rights of women and children guaranteed, an international climate of peace would have to be established, without the threat of foreign interference. That could only be done if the embargo were lifted. Iraq therefore urged the Sub-Commission to add its voice to those of other humanitarian organizations calling for an end to the embargo and to make known the suffering which had resulted from it.

28. Ms. PALALA (Observer for the Philippines) said that her delegation wished to emphasize the importance placed by the Philippines on agenda items 7 and 11. It shared the concerns raised in the Secretary-General's report (E/CN.4/Sub.2/1995/22) regarding the gulf which still existed between the expectations raised at the World Conference on Human Rights in Vienna and the current situation of women's rights. That disparity was of particular concern given that preparations for the Fourth World Conference on Women were entering their final phase.

29. Her delegation also particularly wished to draw the Sub-Commission's attention to the plight of women migrant workers who constituted an extremely vulnerable section of the world's female population. She recalled that in 1995, the Philippines had introduced two important resolutions, namely

Commission on Human Rights resolution 1995/20 on Violence against women migrant workers and resolution 1995/25, on Traffic in women and girls. It hoped that the Sub-Commission's work on agenda items 7 and 11 would focus on the particularly heinous crimes committed against women in such vulnerable situations.

30. Mr. HASHIM (Observer for Bangladesh) said that in addressing the question of the human rights of women, it would be useful to focus on their vulnerability, whether in society at large, in the family or in the workplace. Only through the empowerment of women would it be possible to progress from the notion of equity to equality and from vulnerability to self-sufficiency and participation in decision-making. In Bangladesh, on account of complex cultural factors shaped by traditional social expectation, the situation with regard to women's rights had been somewhat adverse. However, since independence the presence of women had been felt more and more in different spheres of life, and legal reforms had been carried out to protect them from violence and abuses. Their rights were regarded not as a concession but as a development tool. Government action had been focused on the implementation of the provisions of the Constitution and other laws to eradicate gender discrimination.

31. His Government attached priority to education and the development of skills. In 1993 it had introduced free education for girls in rural areas up to the secondary level, giving them 10 years of schooling. An innovative food-for-education programme had also been introduced as an incentive for parents to send their girl children to school, resulting in steady progress in enrolment.

32. A number of initiatives sponsored by the Government and NGOs had demonstrated that developmental goals could be effectively achieved by enhancing the capacity of women. The Grameen Bank's work with poor rural women had been acclaimed internationally. That programme alone had 1.36 million women beneficiaries who had received over US$ 1 billion in loans during the past decade. Initiatives had aimed at providing poor women with increased income and assets, literacy, education in health, nutrition and environment matters, and awareness of social, political and legal rights. BRAC, another NGO, had developed an elaborate programme for encouraging the access of girl children to education on a nationwide basis. The Government of Bangladesh would be happy to share its experience with other Governments, and with NGOs.

33. A significant number of NGOs were active in promoting the participation of women in development. The Government had made separate allocations for programmes for the advancement of women in addition to the multisectoral programmes in which the participation of women in development was a strong component of development projects.

34. The Government was also pursuing a policy of affirmative action to enhance the participation of women in public affairs. Women had been recruited into the police force since 1976, into the diplomatic service since 1979, and into the home civil service since 1982. Of the executive

posts in government offices, 10 per cent were reserved for women, as well as 15 per cent of the support posts. Since the 1991 elections, 10.6 per cent of the Members of Parliament were women, including both the Prime Minister and the Leader of the Opposition.

35. In employment, the current trend indicated that the traditional role of women was changing fast. In 1989 women had comprised 21 million of the total labour force, whereas the figure was now 39 million. Despite social disadvantages, female workers were increasingly entering the formal labour market, particularly in export-oriented industries such as garment making and electronics.

36. Legislative measures for the protection of women included the 1980 Dowry Prohibition Act, the 1983 Cruelty to Women (Deterrent Punishment) Act, the 1984 Child Marriage Restraints Act, which raised the minimum age for marriage to 18 years for women and to 21 years for men, the 1961 Muslim Family Ordinance, which increased the punishments for polygamy and divorce in violation of the statutory provisions, the Penal Code (Second Amendment) Ordinance, which provided for capital punishment for causing grievous injuries to persons by acid throwing, and the 1985 Family Court Ordinance, which dealt with cases of marriage, divorce, maintenance, guardianship and custody of children.

37. A South Asian Ministerial Conference on Women had recently been concluded in Dhaka, where the question of formulating a common position for South Asian countries at the Fourth World Conference on Women had been discussed. The Conference had dwelt on the common problems faced by women in the countries of South Asia and had considered measures for improving their status, emphasizing the need to make them aware of their rights and responsibilities and to enhance their social status and empower them politically and economically.

38. Mr. LI Baodong (China) recalled that on the previous day several NGOs had referred to the preparations for the Fourth World Conference on Women to be held in Beijing. The Chinese Government attached great importance to the preparations, which were making steady progress, and welcomed all participants. In making the necessary arrangements it had to follow the United Nations rules and procedures for international conferences. However, China was a developing country and the Fourth World Conference on Women would be the first international conference of such a size that it had hosted. His Government therefore hoped that the international community would show appropriate understanding. A few NGOs had made untruthful statements in an attempt to sabotage the Conference by inciting the international community to criticize China. They would not succeed.

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (E/CN.4/Sub.2/1995/10-15; E/CN.4/1995/11, 27 and 101; E/CN.4/Sub.2/1994/20, E/CN.4/Sub.2/1993/15; E/CN.4/Sub.2/1995/NGO/9, 23, 30-31)

39. Mr. Hakim took the Chair.

40. Mr. SACHER, Special Rapporteur on the right to adequate housing, introducing his final report (E/CN.4/Sub.2/1995/12), said that unfortunately he had all too little good news to communicate to the Sub-Commission, since

the housing rights of a growing underclass of mankind were being systematically violated or increasingly denied. What he understood housing rights not to imply was explained in paragraph 11 of his report, and what they did imply in paragraph 12, both of which he read out. One of the factors that led to substantial destruction of housing was armed conflict. Another noteworthy instance was the case of the Palestinians who had been uprooted from their ancestral homes since the occupation of East Jerusalem by Israel. That situation was dealt with in paragraph 28 of his report, which he read out. However, the population concerned was developing a will to fight for its rights and to stop abuses.

41. From the information available it was abundantly clear that women across the world continued to suffer discrimination in matters of housing. A specific account of that situation was to be found in paragraphs 45 and 46 of his report, which he read out.

42. He had had a very unfortunate experience at the United Nations Centre for Human Settlements (HABITAT) meeting recently held at Nairobi, which seemed to have concluded, in its resolution 1502, that the right to adequate housing was questionable. He considered that if the right to adequate housing was to be called into question, it was not for HABITAT to do so; only the General Assembly, the Commission on Human Rights or the Sub-Commission could do that. The purpose of HABITAT was to realize the right to adequate housing. At least one United Nations human rights body had sent a letter of protest to HABITAT. He urged the Sub-Commission to reiterate, before the convening of the United Nations Conference on Human Settlements (HABITAT II) in June 1996, that the right to adequate housing was a basic human right. The Sub-Commission might also request the Commission on Human Rights to affirm that view.

43. Even States which traditionally adopted a conservative approach to law were applying international human rights law in the absence of any domestic legislation to the contrary. In India, for example, NGOs had brought housing cases before the courts, and the Supreme Court had accepted a right to housing as part of the right to life. Directions had been given to prevent evictions.

44. The right to adequate housing would remain an empty phrase unless some indicators were developed to measure its implementation. Those indicators were dealt with in Part IV of his report and involved factors such as the right to information, the right to a healthy environment, and economic parity. The latter was covered in paragraphs 115 and 116 of his report, which he read out.

45. Sadly enough, one of the reasons often given for the failure to implement the right to adequate housing was the existence of financial constraints. In a world that was currently supposed to be free from the threat of major war, a cut in defence expenditure of only 3 per cent would release approximately US$ 278 billion in the developing countries and approximately US$ 1.3 trillion in the developed countries. The amount estimated by the United Nations to be necessary to meet the housing shortage was only US$ 75 billion. Thus to put forward financial constraints as an excuse was not very honest.

46. In his second progress report (E/CN.4/Sub.2/1994/20) he had dealt with the question of an international convention on housing rights. Unfortunately, the draft convention had not been sent out to the parties indicated in the resolution. Habitat International Coalition had held a workshop on the subject in February 1995 and the American Society of International Law had prepared a relevant paper, but no overall response was available. He therefore requested that the draft convention should be sent without delay to States, United Nations bodies and agencies, and NGOs, as indicated in Sub-Commission resolution 1994/38. Only when that had been done would it be possible for him to attempt to discuss the various aspects and nuances and to provide the Sub-Commission with a new draft. In that connection he read out paragraphs 142 and 143 of his report.

47. The crux of his conclusions was given in paragraph 146 of the report, which he read out. His recommendations were to be found in Part XIII, of which he read out paragraphs 159, 164 and 168. In India the courts had forbidden the continuation of development projects unless the conditions outlined in those paragraphs were satisfied. He also read out paragraph 169.

48. In his view an optional protocol to the International Covenant on Economic, Social and Cultural Rights would be the most appropriate instrument for dealing with the prevention of housing shortages and forcible evictions. Since human rights were indivisible and there was no longer any fundamental distinction between political and economic rights, the Human Rights Committee could legitimately broaden its mandate to include not only violations of civil and political rights but also violations of the right to adequate housing.

49. He read out paragraph 210, containing his recommendations regarding the World Bank, as well as paragraphs 151, 152 and 153.

50. He deeply regretted that in many countries more houses were being destroyed than were being built while development projects were being privatized. Under existing conditions the slums of the world would continue to grow.

51. In the view of the Special Rapporteur, the fundamental necessity of an adequate place to live in peace, dignity and security was such that a recognition of housing rights must be seen and interpreted, in the most general sense, to imply the following: that once such obligations had been formally accepted, the State would endeavour by all appropriate means to ensure that everyone had access to housing resources adequate for health, well-being and security, consistent with other human rights; that a claim or demand could be made upon society for the provision of or access to housing resources should a person be homeless, inadequately housed or generally incapable of acquiring the bundle of entitlements implicitly linked with housing rights; and that the State, directly upon assuming legal obligations, would undertake a series of measures which indicated policy and legislative recognition of each of the constituent aspects of the right in question.

52. Mr. BENGOA, Special Rapporteur on the relationship between the enjoyment of human rights, in particular economic, social and cultural rights, and income distribution, at both national and international levels, introducing his preliminary report (E/CN.4/Sub.2/1995/14), said that he wished to

emphasize the importance of the World Summit for Social Development in Copenhagen which had represented a turning point in the treatment of the issue of economic, social and cultural rights.

53. The cold war had just ended and there had been considerable uncertainty at the time regarding the way in which the world would develop during the next century. World leaders and intellectuals feared for the future of mankind as they observed growing globalization and the deep gap separating the rich from the poor both internationally and within individual countries. The priority given to the rules of the market, at both the international and national levels, seemed to have led to economic growth but, in many countries that growth had brought with it profound changes in society, accompanied by inequality and the exclusion of increasing numbers of people. The issue of exclusion had come to the fore in social discussion. An economic system which grew but was not capable of including its entire population in that growth resulted in the exclusion of the poor and an increase in their number.

54. At the Copenhagen World Summit for Social Development it had been agreed that the world's greatest challenge in the future would be poverty. President Mandela of South Africa had described poverty as the face of slavery. In his report he had therefore stressed that any mandate on economic, social and cultural rights must take cognizance of the conclusions and Programme of Action of the Copenhagen World Summit for Social Development, and particularly its appeal to all organizations of the United Nations system to strengthen and adjust their activities, programmes and medium-term strategies, as appropriate, to take into account the follow-up to the Summit. Poverty was on the increase everywhere, even in the developed countries, as had been emphasized at the important United Nations seminar in New York held in October 1994 (E/CN.4/1995/101).

55. In its work under item 8, the Sub-Commission must implement that appeal by analysing how the economic, social and cultural rights of people could be enjoyed and guaranteed. His report stressed that the issue of economic, cultural and social rights should be given special priority and kept open by the Sub-Commission.

56. The importance of income distribution had been emphasized by the World Summit where many had been sceptical regarding the future evolution of the growth-income distribution equation and its impact on the social structure.

57. At the World Summit, the World Council of Churches had pointed out that Gross National Product had become a principal yardstick for measuring economic growth but had said nothing about the inequalities which existed between sectors and zones of a country; it also tabulated activities without taking any account of the social and environmental consequences, nor of the fact that part of the economy was often the result of clandestine, including criminal, activities. That indicator had blinded Governments to reality. There was no doubt that the current economic world had been blinded by the concept of growth in Gross National Product; it was accordingly necessary to discuss the issue of income distribution as essential for a serious analysis of economic growth. In that connection the former President Aylwyn of Chile, when speaking at the World Summit, had pointed out that during his four-year term

of office there had been growth at the average rate of 6 per cent annually but nevertheless there had been no change in the relationship between rich and poor. The problem was how to develop an understanding of the capacity for social integration of societies and their capacity to establish linkages between people with a view to avoiding the possibly explosive consequences of disintegration and the exclusion of many from social life.

58. He had pointed out in his preliminary report that the challenge of the study had been to develop a modern view of economic, social and cultural rights. He shared the opinion that the changes which were taking place and an understanding of the functioning of the State were the determining factors. The issue of economic, social and cultural rights could not be viewed in the perspective of previous decades. For that reason he had suggested a change of emphasis in his preliminary report and the development of a contemporary view of those rights, in keeping with new trends in international politics and judicial practice, and in particular with a new concept of the State and its function in society. A modern view of the economic, social and cultural rights of individuals should have as its focal point the right to opportunity.

59. The purpose of the second part of his report had been to reflect on the issue of economic, social and cultural rights within the framework of globalization. Certain minimum levels of living and cultural conditions were essential to democracy. It was not possible for the right to vote to be properly exercised by anyone living in conditions of extreme poverty. Economic, social and cultural rights represented the minimum necessary to guarantee the real enjoyment of civil and political rights. The indivisibility of all human rights was of the greatest importance in developing the theme of his study.

60. As he had pointed out in paragraph 36, income distribution was unquestionably an adequate indicator of the extent to which economic, social and cultural rights were being realized. Income distribution was an expression of equity and respect for the material conditions of human existence.

61. Part VI of the report contained an eight point work plan. In that connection it would be extremely important to undertake a series of seminars and working groups to study the issues raised in the plan. He would like to stress three points. First, the issues of poverty, equity and the realization of economic, social and cultural rights were matters of high priority in the world. Second, the area of economic, social and cultural rights lacked standards and the Sub-Commission should make an effort to develop such standards. Third, the Sub-Commission should become a forum for debate on the realization of those rights within the context of the Copenhagen Summit agreements. In that way the discussion would not develop into a series of expressions of goodwill but would be devoted to improving the life of people.

62. Mr. DESPOUY, Special Rapporteur on human rights and extreme poverty, introducing his second interim report (E/CN.4/Sub.2/1995/15), said that previous statements in the Sub-Commission had clearly emphasized the importance of economic, social and cultural rights and their topicality, and the fact that people were generally aware of the importance of those rights. In that connection, the Copenhagen World Summit for Social Development had

been the forum as Mr. Bengoa had indicated in his statement which had sparked off general concern among the international community. Only in 1985-1986 had the subject of extreme poverty begun to be seen as a problem of some dimension in the human rights field. On the basis of views expressed at that time it had been understood that the concern related to deprivation as an obstacle to human rights, not just economic, social and cultural rights, but also political and civil rights. It was in that light that the Commission on Human Rights had approved the Sub-Commission's request to appoint a special rapporteur on the issue.

63. In preparing his second interim report, he had taken two points into account, namely, the effect of extreme poverty on the enjoyment of human rights and the conditions in which the poorest people could recount their experiences in their fight to extract themselves from extreme poverty. In accordance with those concerns, the General Assembly, in 1993, had proclaimed 1996 to be the International Year for the Eradication of Poverty. Three years ago the Commission had approved an initiative to convene a seminar on extreme poverty and the denial of human rights attended by experts, representatives of Governments, specialized agencies and non-governmental organizations and representatives of families coming from very poor areas. That seminar had taken place in New York in October 1994. The Commission had also asked him to bear in mind the preparatory work and conclusions of the Copenhagen World Summit for Social Development.

64. He agreed with Mr. Bengoa on the importance of that seminar and its subject-matter. He would also like to remind members that many concerns which had been expressed in his preliminary report (E/CN.4/Sub.2/1993/16) had been reflected in a number of the decisions contained in the Programme of Action of the Copenhagen World Summit. That fact clearly illustrated one of the essential functions of the Sub-Commission which was to highlight problems that had an impact on human rights. Extreme poverty was one of those problems and the Sub-Commission had been right to emphasize it. That concern had coincided with what had occurred subsequently at the Copenhagen World Summit.

65. In his second interim report he had dealt with all the problems linked to the reasons for extreme poverty and also with questions linked to terminology such as the use of terms including "critical poverty", "extreme poverty", "absolute poverty" and others.

66. One of the purposes of the Copenhagen World Summit had been to address concerns relating to statistics and parameters for the measurement of poverty. One problem had been the lack of statistics. Experts had explained the difficulties and restrictions involved in compiling statistics or assessments on the subject of extreme poverty; for example, the poorest were not included in established standard statistics; they were not consulted and in general they were not taken into account. It was therefore difficult to establish policies in a sector which had been generally ignored. There had been a failure to adapt parameters and a lack of interest and consideration with regard to the poorest and marginalized sectors. It was important that States had been asked to improve the reliability, usefulness, validity and dissemination of statistics and other information on social development and to be prepared to measure all forms of poverty, particularly absolute poverty.

67. There had been considerable discussion regarding indicators, especially the inadequacy of certain parameters and statistics. The Copenhagen World Summit had, however, introduced certain concepts which were compatible with the conclusions which the Special Rapporteur had reached in his preliminary report. Inability to meet basic human needs had been defined as deprivation not only of food needs but also of social needs such as water, health care, housing, education and information. What was involved was not only income but access to social services. The problem of measuring progress in the enjoyment of economic, social and cultural rights still remained. He hoped that Mr. Bengoa would be able to make progress in establishing those parameters which were not only theoretical but were practical in the sense that they would lead to measures to achieve goals as well as to specific problems which would make it possible to establish those rights.

68. It was clear that traditional parameters for measuring economic growth were inadequate. For example, even if there had been progress at the economic level, the access of some sectors to social services had declined so that their exclusion from society had increased. Thus economic growth had not been decisive because the sectors of the population living in extreme poverty had increased.

69. Even when past indicators had shown improvements, for example in life expectancy and water, all indicators and studies had shown that extreme poverty was on the increase throughout the world, particularly in Latin America, Africa and Asia. It was also important to bear in mind that the countries of the European Union had expressed concern regarding exclusion and situations of extreme poverty. Recent studies had shown that, in countries with high economic development, between 3 and 5 per cent of the population lived in conditions of poverty and were accordingly marginalized. The problem was getting worse.

70. The living conditions of people in extreme poverty were addressed in the report (paras. 91-102). As sources, he had relied on the report of the seminar on extreme poverty and the denial of human rights (E/CN.4/1995/101), on information from the World Summit for Social Development, and also on two monographs produced by a non-governmental organization working directly with people in extreme poverty, International Movement ATD Fourth World, on the basis of interviews conducted over long periods of time with members of specific families. The monographs gave a revealing picture of the family histories, showing how poverty was passed on from generation to generation and how difficult it was to surmount it.

71. He had studied the impact of extreme poverty on each one of the economic and social rights, showing parallels between the situations of persons in different continents living in extreme poverty. Moreover, he had considered the significant impact of living conditions such as homelessness and the like also on the exercise of civil and political rights - yet another indication of the interdependence of human rights.

72. The purpose of his report had been to begin to formulate a definition of extreme poverty from the human rights angle. He had drawn attention to the historical dimension of extreme poverty as a phenomenon that could be

observed at all stages of human history and, further, to extreme poverty as a phenomenon that affected developed and developing countries alike, in that it engendered exclusion and marginalization, and vice versa.

73. The direct impact of extreme poverty on the enjoyment of human rights had been considered as part of the equation, as had the problem of the interdependence or indivisibility of human rights, to which extreme poverty, in fact, testified most clearly. The denial of any one economic or social right impinged on all other rights, thus creating a vicious circle of destitution in a horizontal dimension, paralleling the vicious circle of its transmission in a vertical dimension from generation to generation. Lastly, attention had been drawn (paras. 103 et seq. of the report) to a difficulty that compounded all others for those living in extreme poverty: not only were they denied their rights, but they had no access to the justice system and thus had no way of demanding their rights.

74. In that connection, it should be noted that the massive violations of the whole spectrum of human rights of the very poor, common in so many countries, also raised the issue of impunity, a matter on which the relevant Special Rapporteurs might wish to reflect. His next report would dwell more on the causes of extreme poverty and give more space to policies that might help solve the problem from the human rights standpoint.

75. Mr. Maxim resumed the Chair.

76. Mr. ZHONG Shukong said that over 75 per cent of the world's population, who lived in the developing countries, accounted for less than 25 per cent of the global Gross National Product (GNP), less than 25 per cent of the volume of trade and less than 25 per cent of the emission of greenhouse gases. Given such diversity of living standards in the world, there could be a universal call for the realization of economic, social and cultural rights, but not universally applicable mode or standard of doing so.

77. How, for instance, was adequate housing to be quantified? The developed world's target of 20 to 40 m^2 of floor space per capita was totally unrealistic in the poor areas of a developing country, where food and clean drinking water were lacking and three generations lived under the same roof. Even the short-term solution of guaranteeing access to food and drinking water, however, would require the allocation of funds to the development of poor areas.

78. Again, in the case of education, the indicator was set at 50 per cent of the population receiving higher education, and that too was impossible for the overwhelming majority of developing countries. The 1990 Report of the South Commission had confirmed woefully low levels of literacy and education during the 1980s, with 20 per cent literacy normal and 50 per cent primary school enrolment quite good for most of Africa, many Asian countries and even parts of Latin America. Any improvement beyond those levels required financial resources. For the developing countries, the realization of economic, social and cultural rights could not be separated from the issue of overall development, and a step-by-step approach had to be followed, from the eradication of poverty and the satisfaction of basic needs to the fullest possible enjoyment of those rights by all citizens.

79. An enduring tradition of moral and ethical education should, of course, be promoted in all nations by Governments, communities, non-governmental organizations and the media. Its neglect bred crime, violence and moral degradation and shook the very foundations of the State.

80. Gigantic efforts were needed for an equitable realization of the rights in question, which were not the exclusive province of the privileged few. One prerequisite was peace and stability, both domestic and international. No country plagued by racial feuds or social disturbances or threatened by external aggression could concentrate on social and economic development. Progress required effective national policies of social and economic development, suited to the country's specific conditions. Such policies were the internal affair of each State. With the actual conditions in each country as the starting point, the first priority in most countries was to eliminate poverty and meet basic needs. While it was useful to learn from the developed countries, blind copying could only cause setbacks.

81. Another prerequisite was supportive cooperation at the international level. The 1992 United Nations Conference on Environment and Development had in Agenda 21 underscored the fact that international cooperation should be designed to complement and support - not to diminish or subsume - sound domestic policies. In short, both national efforts and international support were essential. The Sub-Commission could assist in promoting the latter.

82. Economic, social and cultural rights should be addressed in the context of problems that went beyond national boundaries - such as safeguarding peace, eliminating poverty, protecting the environment, reducing population growth, creating jobs, settling refugees, advancing the welfare of women and children, defusing racial or religious feuds, fighting drug addiction and trafficking or preventing the spread of AIDS - which could not be resolved without extensive international cooperation.

83. Cooperation should be based on four basic principles. Developing countries must speed up their sustainable economic development, which in turn would promote democracy and serve as the basis for social progress. Secondly, each country's conditions, and its sovereign decision to choose its own road towards development must be respected, since diversity was a perennial reality in the world and a source of creativity vital to human progress; any interference in the internal affairs of any country under whatever pretext constituted a violation of the basic norms of international law and should be opposed. Thirdly, cooperation could endure only when it was based on equality and mutual benefit; differing views should be reconciled through consultations on an equal footing and there should be no recourse to sanctions, a legacy of the cold war. Fourthly, the developed countries had the greater responsibility to promote the common prosperity of humankind: their own prosperity had, after all, been derived from the exploitation of their former colonies in what was now the developing world, a situation well analysed by Mr. Guissé in his report (E/CN.4/Sub.2/1995/19, paras. 31 and 32). Just as the poverty and consequent social upheavals or conflicts had an impact on the developed countries, any headway they could make in development, and the consequent growth of world trade, would work to the benefit of the developed countries.

84. The Sub-Commission should advocate those principles of healthy international cooperation and review their implementation in subsequent sessions.

85. Mr. YOKOTA observed that the relationship between economic development assistance and the realization of economic, social and cultural rights was often interpreted very differently.

86. One extreme view, taken by some non-governmental organizations and scholars, was that "the economic development assistance" provided by the international financial institutions and some developed countries was not in fact furthering the enjoyment of those rights but rather violating them, through the harsh conditionality of structural adjustment. Furthermore, it was claimed that, in the case of dictatorships, foreign development assistance benefited only a handful near the power centre without reaching the great majority of the people, and that it was often used to strengthen the repressive Governments rather than the economies of the countries, thus perpetuating poverty and misery.

87. At the other extreme was the view that without economic development assistance, developing countries would not be able to achieve the economic growth that would ensure their people's enjoyment of economic, social and cultural rights. Proponents of that view saw conditionality as a means of removing some of the structural impediments to development and therefore hastening it, thus eventually ensuring the rights of the people.

88. In his own view, the relationship between development assistance and the enjoyment of economic, social and cultural rights was not so simple, and involved a number of factors. Development assistance did not necessarily produce economic development as intended. However, economic development, the sine qua non for the enjoyment of economic, social and cultural rights by the people of the developing countries, would take longer without development assistance, thus delaying that enjoyment. Moreover, even if economic development was achieved as a consequence of development assistance, there was no assurance that its fruits would be equally and fairly distributed among the people. Furthermore even if development assistance did not achieve full economic development, it could still help the people to enjoy economic, social and cultural rights by providing opportunities to work and to earn.

89. The conditions under which economic assistance ensured the enjoyment of economic, social and cultural rights had to be identified, and development assistance agencies such as the World Bank had to be required to try to respect them. In that connection, he wished to propose that the World Bank and other financial institutions should establish human rights branches to evaluate all proposed assistance projects and programmes from the standpoint of human rights, particularly the economic, social and cultural rights; and that their existing research units, such as the Economic Development Institute of the World Bank, should undertake a serious theoretical and practical study of the relationship between development assistance and the enjoyment of economic, social and cultural rights, and possibly civil and political rights as well.

90. Ms. KO (Minority Rights Group (MRG)) observed that in their consideration of economic, social and cultural rights, the Sub-Commission and the Commission had often focused on States and the right to development, or on extreme poverty and the efforts by the poorest to exercise their rights, but that little attention had been paid to actors other than the State and individuals. Minorities and indigenous communities per se had been virtually ignored, even though they were often the poorest in any society, sometimes excluded from any State benefits or further disadvantaged by structural adjustment programmes. The latter had been shown in a recent MRG study on the education rights of minorities to hit particularly hard on the capacity of developing countries to provide education, owing to the requirement that countries in Africa, Asia and Eastern Europe, including Russia, should restructure their economies as market-based economies, and the consequent withdrawal of State involvement in economic management and the provision of social services.

91. The impact of structural adjustment on education varied, but a United Nations Development Programme (UNDP) survey served as a useful indicator. Zimbabwe, for example, had made great strides in education during the period of economic adjustment, while in Tanzania significant deprivation existed, with nearly half the children not attending primary school. Some developing countries, such as Korea, Nepal, the Philippines and Mauritius, were nevertheless still able to provide free education at various levels. In general terms, however, structural adjustment spelled problems for education. Even where States continued to provide public education, the burden of costs was increasingly being transferred to families, which could discourage poor families from keeping their children in school. The forthcoming Minority Rights Group report on the Roma of Europe would show not only how acute poverty prevented children from attending school because they lacked clothing and equipment, but how their failure to receive school food was leading to acute malnutrition among Roma children in certain countries.

92. MRG's recent study on Cambodia described, among others, the situation of the indigenous hill tribes, who had a pressing need for health care. Access to modern medicines for treating life-threatening diseases should be made available to the communities and a way should be found to incorporate them, with their informed consent, into traditional practices. The Cambodian indigenous communities, moreover, practised slash-and-burn farming, which required considerable land, and any encroachment on their lands through commercial development schemes by the Khmer majority, such as logging, farming, livestock grazing and tourism, might conflict with their way of life and lead to conflicts over land.

93. Those examples showed the importance of economic, social and cultural rights for marginalized communities. The United Nations had developed and was developing some valuable standards on the issue, as in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities, particularly articles 4, paragraph 5, 5, paragraph 1 and 5, paragraph 2, which dealt with issues to which the Special Rapporteur should give particular attention in his next report, and in the draft United Nations Declaration on the Rights of Indigenous Peoples, particularly articles 19, 20, 29 and 31.

The meeting rose at 1 p.m.